

MONTANA LEGISLATIVE HISTORY

Chapter 619
~~601~~ 19 91

Bill H _____ S 299 Original bill & history C

H. Committee on Taxation

Hearing Date(s) Mar 21 ✓ C

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_____ C

Date Out Mar 21 ✓ C

S. Committee on Taxation

Hearing Date(s) Feb 14 ✓ C

Feb 15 ✓ C

_____ C

_____ C

Feb 15 ✓ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

2/18	FISCAL NOTE PRINTED		
2/18	FIRST READING		
2/18	REFERRED TO TAXATION		
2/18	FISCAL NOTE RECEIVED		
3/19	HEARING		
3/19	COMMITTEE REPORT—BILL CONCURRED		
3/19	PLACED ON CONSENT CALENDAR		
3/20	OBJECTION TO CONSENT CALENDAR FILED		
4/11	2ND READING CONCURRED	90	5
4/12	3RD READING CONCURRED	95	3
	RETURNED TO SENATE		
4/18	SIGNED BY PRESIDENT		
4/20	SIGNED BY SPEAKER		
4/20	TRANSMITTED TO GOVERNOR		
4/24	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 595		

EFFECTIVE DATE: 4/24/91

SB 279 INTRODUCED BY B. BROWN, ET AL.

PROVIDE A MONTANA TAXPAYER BILL OF RIGHTS AND OFFICE
OF TAXPAYER ASSISTANCE
BY REQUEST OF DEPARTMENT OF REVENUE

2/05	INTRODUCED		
2/06	REFERRED TO TAXATION		
2/06	FIRST READING		
2/06	FISCAL NOTE REQUESTED		
2/11	FISCAL NOTE RECEIVED		
2/11	FISCAL NOTE PRINTED		
2/14	HEARING		
2/15	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/16	2ND READING PASSED	47	1
2/18	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		
3/04	FIRST READING		
3/04	REFERRED TO TAXATION		
3/21	HEARING		
3/22	COMMITTEE REPORT—BILL CONCURRED		
4/11	2ND READING CONCURRED	96	0
4/12	3RD READING CONCURRED	96	2
	RETURNED TO SENATE		
4/18	SIGNED BY PRESIDENT		
4/20	SIGNED BY SPEAKER		
4/20	TRANSMITTED TO GOVERNOR		
4/25	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 619		

EFFECTIVE DATE: 10/01/91

SB 280 INTRODUCED BY B. BROWN

REVISE AND STANDARDIZE PROCEDURES FOR CERTAIN TAXES
AND FEES COLLECTED BY DEPARTMENT OF REVENUE
BY REQUEST OF DEPARTMENT OF REVENUE

2/05	INTRODUCED		
2/06	REFERRED TO TAXATION		
2/06	FIRST READING		
2/06	FISCAL NOTE REQUESTED		
2/11	FISCAL NOTE RECEIVED		
2/12	FISCAL NOTE PRINTED		
2/14	HEARING		
2/18	COMMITTEE REPORT—BILL PASSED		
2/21	2ND READING PASSED	49	0
2/22	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0279, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing a Taxpayer Bill of Rights; guaranteeing to all Montana taxpayers specified procedural rights in the administration and collection of taxes by the Department of Revenue; and creating an office of taxpayer assistance.

FISCAL IMPACT:

Expenditures:

The office of taxpayer assistance will be provided utilizing existing department resources, provided that the position slated for this office is not eliminated in the current budget process.

Revenues:

There is no impact on revenues.


ROD SUNDSTED, BUDGET DIRECTOR
Office of Budget and Program Planning

2-9-91
DATE


ROBERT (BOB) BROWN, PRIMARY SPONSOR
DATE

Fiscal Note for SB0279, as introduced

SB 279

HEARING ON SENATE BILL 279Presentation and Opening Statement by Sponsor:

Senator Bob Brown explained Senate Bill 279 was at the request of the Department of Revenue and prepared by a special advisory committee to the Department of Revenue. He told the Committee the bill is to ensure that the rights, privacy, and property of Montana taxpayers are adequately protected during the process of assessment and collection of taxes administered by the Department of Revenue. He explained most is existing department policy. The bill will put the rights of taxpayers which is generally understood in following those policies, or what already exists in a separate section of the statute. It would facilitate the taxpayers understanding of their tax situation. Included in the bill is the creation of a new office in the department called the Office of Taxpayer Assistance.

Proponents' Testimony:

Dave Woodgerd representing the Montana Department of Revenue told the Committee the concept has been in the department for a couple of years. California enacted a taxpayers bill of rights in about 1988, and since that time approximately another dozen states have adopted one, as well as the federal government. Mr. Woodgerd told the Committee aside from the ethical considerations of treating people fairly, the department wishes to improve relations with the taxpayer by furthering the concept of the taxpayer as a customer. He explained better relations with the taxpayer would bring better voluntary compliance with the tax laws with less administrative problems in collecting the tax.

He explained the committee who worked on the provisions of Senate Bill 279 was comprised of state employees, department of revenue employees, as well as individuals outside the department. Dennis Burr, Gordon Morris from MACO, an internal revenue representative, and a representative from outside counsel who represented taxpayers on a regular basis, served on this committee.

Mr. Woodgerd presented a copy of a brochure from Nebraska for the Committee's perusal. He explained they reviewed what other states had done and singled out what had assisted the taxpayer as well as helping administrative function.

Mr. Woodgerd presented the Committee with a handout which he described. (Exhibit #1)

Dennis Burr representing the Montana Taxpayers Association spoke in favor of Senate Bill 279. He told the Committee in addition to the states adopting a taxpayers bill of rights there are others that have adopted it through rules of the department of revenue. He explained if the bill is passed a brochure would be prepared by the department available to taxpayers.

James Tutwiler representing the Montana Chamber of Commerce spoke in support of Senate Bill 279.

Tom Harrison of the Montana Society of Certified Public Accounts told the Committee the society, as well as having input into the drafting of the legislation, endorses Senate Bill 279.

Tom Hofgood representing the Montana Association of Realtor spoke in favor of Senate Bill 279. Although Mr. Hofgood did not sign the Visitor's Register his testimony is noted. He told the Committee tax reform is an item on the agenda for the association this session.

Opponents' Testimony:

NONE.

Questions From Committee Members:

Senator Towe told the Committee Senate Bill 279 is commendable. He asked Mr. Woodgerd about Page 3, Lines 2 through 6, where it speaks of the taxpayer having the right, at the discretion of the department. Senator Towe asked if the intent is the taxpayer is to have the right, whenever there is a request, unless the department feels there is not reason for the right to be exercised. Mr. Woodgerd explained the provision had been debated in the committee and within the department. He explained taxpayers are now allowed to make installment payments after the department is satisfied there is no other way the taxpayer can afford to pay the taxes. He explained the installment basis requires additional administrative functions, and is avoided except as a last resort. He told the Committee the language in Lines 2 through 6, Page 3 is saying that.

Senator Towe asked Mr. Woodgerd about Page 4, Line 8. Senator Towe expressed hope that the department would follow that. Senator Towe explained with a step in the right direction and a "good gesture" on the part of the department regarding the rights of the taxpayer, the "worst travesty of all is still the warrant of distraint". He commented that other departments have to give notice in advance, with an opportunity to respond. Mr. Woodgerd told the Committee the only time the department can do that is in an emergency situation.

Senator Harp asked Mr. Woodgerd about Section 3. Office of taxpayer assistance. He asked if an existing FTE would fill this position or if it would require additional staff. Mr. Woodgerd explained there is an existing position in the directors office.

Senator Halligan pointed out considerable duties that are required of this position. He asked Mr. Woodgerd why the position he is speaking of exists now. Mr. Woodgerd explained his understanding is the position is currently vacant and has been scheduled for cut, but is in the current level budget. He explained it would be a full time position and the department's intention is to hire someone full time.

Senator Halligan commented on the program with the auditors for monitoring agencies for compliance. He pointed out this position appears to be what the auditors would do. In certain instances there appears to be duplication, i.e., compiling reports, determining the number and types of complaints, determining the effectiveness of the department's handling of complaints.

Senator Eck asked Dave Woodgerd if the counties who participated in the study are planning something similar at the county level. Mr. Woodgerd told the Committee he could not comment, the issue did not come up.

Closing by Sponsor:

Senator Brown closed on Senate Bill 279.

EXECUTIVE ACTION ON SENATE BILL 279

Motion:

Senator Harp moved DO PASS on Senate Bill 279.

Discussion:

NONE.

Amendments, Discussion, and Votes:

NONE.

Recommendation and Vote:

Motion to DO PASS CARRIES.

HEARING ON SENATE BILL 280

Presentation and Opening Statement by Sponsor:

Senator Brown told the Committee Senate Bill 280 is at the request of the Department of Revenue. He explained it will standardize the administration and collection of eight miscellaneous taxes and fees as an attempt to reduce administrative costs and facilitate taxpayer compliance.

Proponents' Testimony:

Jeff Miller, Administrator of the Income Tax Division told the Committee the bill would standardize and make more understandable to various requirements. He told the Committee there is a common population of taxpayers paying these taxes. They are faced with varying regulations in requirements depending on whether they are paying a corporate income tax or withholding

ROLL CALL

SENATE TAXATION COMMITTEE

DATE 2/15/91

LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SEN. HALLIGAN	P		
SEN. ECK	P		
SEN. BROWN	P		
SEN. DOHERTY	P		
SEN. GAGE	P		
SEN. HARP	P		
SEN. KOEHNKE	P		
SEN. THAYER	P		
SEN. TOWE	P not		
SEN. VAN VALKENBURG	P		
SEN. YELLOWTAIL	P		

Each day attach to minutes.

THE MONTANA
TAXPAYER
BILL OF RIGHTS

★ ★ ★

GUARANTEES MONTANA TAXPAYERS RIGHTS :

THREE IMPORTANT AREAS:

- THE ADMINISTRATION OF TAXES,
- THE COLLECTION OF TAXES, AND
- ACCESS TO TAXPAYER ASSISTANCE.

SENATE TAXATION

EXHIBIT NO. 1

DATE 2/14/91

BILL NO. SB 279

ADMINISTRATION OF TAXES

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A MONTANA TAXPAYER HAS RIGHTS TO:

1. RECORD ANY INTERVIEW, MEETING OR CONFERENCE WITH AUDITORS OR ANY OTHER REPRESENTATIVE OF THE DEPARTMENT.
2. HAVE A TAXPAYER REPRESENTATIVE TO ASSIST REPRESENTING THE TAXPAYER'S INTERESTS BEFORE THE DEPARTMENT OR A TAX APPEAL BOARD.
3. OBTAIN AND RELY ON TAX ADVICE FROM THE DEPARTMENT. IF SUCH ADVICE IS NOT CORRECT, THE TAXPAYER IS ENTITLED TO WAIVER OF ANY PENALTIES AND INTEREST ASSESSED AS THE RESULT OF RELIANCE ON SUCH ADVICE.

COLLECTION OF TAXES

★ ★ ★ ★

A MONTANA TAXPAYER HAS RIGHTS TO:

1. REQUEST TO PAY DELINQUENT TAXES ON AN INSTALLMENT BASIS PROVIDED THE TAX IS ASSESSED BY THE DEPARTMENT AND THE PAYMENT MEETS REASONABLE CRITERIA.
2. A CLEAR AND COMPLETE EXPLANATION OF ANY ADDITIONAL TAX ASSESSED.
3. MANAGEMENT LEVEL REVIEW OF AN AGENT'S ACTIONS AND A FULL EXPLANATION OF AVAILABLE APPEAL REMEDIES.
4. RECOVER COURT COSTS IF THE DEPARTMENT IS FOUND TO HAVE BROUGHT A FRIVOLOUS ACTION.
5. A FULL EXPLANATION OF THE DEPARTMENT'S AUTHORITY AND TAXPAYER PROTECTION IN A COLLECTION PROCEEDING.
6. IMMEDIATE RELEASE OF LIENS UPON PAYMENT OF TAXES DUE OR DISCOVERY OF AN ERROR.
7. A GUARANTEE THAT DEPARTMENT EMPLOYEES ARE NOT PAID, PROMOTED OR IN ANY WAY REWARDED ON THE BASIS OF THE NUMBERS OF ASSESSMENTS OR COLLECTIONS FROM MONTANA TAXPAYERS.

TAXPAYER ASSISTANCE

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A MONTANA TAXPAYER HAS RIGHTS TO:

1. EASILY UNDERSTANDABLE TAX INFORMATION.
2. CORRECT AND CLEAR ANSWERS TO TAXPAYER QUESTIONS.
3. ASSISTANCE IN PREPARING RETURNS AND OTHERWISE COMPLYING WITH MONTANA'S TAX FILING REQUIREMENTS.
4. TO KNOW HE/SHE HAS A PERSON (TAXPAYER ASSISTANT) WORKING TO INSURE THE DEPARTMENT PROVIDES:
 - A. PROMPT PROFESSIONAL SERVICE
 - B. TIMELY RESOLUTION OF COMPLAINTS
 - C. AN OBJECTIVE REVIEW OF DEPARTMENT COLLECTION ACTIVITIES

statute.

Senator Towe asked if building purchase/lease is typical of what is done in urban tax increment financing districts. Mr. Barrett told the Committee it was. He explained it is very common that grants and loans programs to the private sector in the urban districts. These are generally associated with improvements to buildings. The concept of building a building is an accepted practice in economic development.

Evan Barrett furnished a packet to members of the Committee. (Exhibit #1 and Exhibit #2)

EXECUTIVE ACTION ON SENATE BILL 333

Motion:

Senator Gage moved Senate Bill 333 DO PASS.

Discussion:

Senator Gage commented on amendments proposed by Mr. Tim Wylder. Senator Gage told the Committee if individuals do not want to pay on non-distributed revenue they should not have made the Sub S election.

Senator Towe explained all advantage goes to the taxpayer during transition.

Senator Thayer pointed out Mr. Wylder contacted the department to determine the existing policy. Senator Thayer commented individuals should not be taxed on previous years.

Senator Gage agreed that all cases through tax year 1991 would be based on the rules and statutes in effect at that time.

Recommendation and Vote:

The motion to DO PASS CARRIED with Senator Doherty and Senator Thayer voting NO.

EXECUTIVE ACTION ON SENATE BILL 279

Motion:

Senator Thayer moved to reconsider Senate Bill 279 passed out of Committee on February 14, 1991 for purpose of amending.

Senator Towe moved amendments to Senate Bill 279; Page 3 Line 17, to strike "or other applicable appeal procedures"; Page 4 Line 24, change the word "appeal" to "review"; Page 4 insert the following Line 25 (renumber other two letters accordingly)

"providing easily understandable information on appeal procedures".

Senator Towe moved Senate Bill 279 DO PASS as amended.

Discussion:

Senate Gage explained concerns expressed by John McNaught, Chair of the Tax Appeals Board: Page 3, Line 16-17 "after exhaustion of all appropriate administrative remedies or other applicable". Senator Gage said the taxpayer should have immediate appeal rights. Another concern was Page 4, Line 24 "appeal". The department is not in the appeal process and the suggestion is to change the word "appeal" to "review".

Dave Woodgerd told the Committee the department has not objection to changing the word "appeal" to "review". He explained the department needs the language on exhaustion of administrative remedies, and in fact the law requires that. He told the Committee they agreed on Page 3, Line 17 deleting the language "or other applicable appeal procedures".

John McNaught, Chairman of the State Tax Appeal Board told the Committee he supports Senate Bill 279 with the amendments.

Senator Van Valkenburg asked if discussion had taken place on taxpayer responsibilities in addition to taxpayer rights. He told the Committee taxpayer responsibilities should be addressed.

Thayer motion to reconsider CARRIED.

Towe motion to amend Senate Bill 279 CARRIED.

Towe motion to DO PASS as amended CARRIED.

EXECUTIVE ACTION ON SENATE BILL 115

Motion:

Senator Van Valkenburg moved to amend the Title, Page 1, Line 5 by striking the words "any type of tax not prohibited by law"; insert the words "a local option, income, sales and use, and property taxes".

Senator Brown moved to amend Senate Bill 115 (sb011501.ajm). He later withdrew his motion based on Senator Van Valkenburg suggestion to draft a committee bill.

Senator Brown moved to amend Senate Bill 115 (sb011502.ajm).

Senator Van Valkenburg moved the Committee request the drafting of a bill which would provide for a voter approved local exemption from requirements of 1105 by all property tax

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 15, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill NO. 279 (first reading copy -- white), respectfully report that Senate Bill NO. 279 be amended and as so amended do pass:

1. Page 3, lines 17 and 18.

Strike: "or" on line 17 through "procedures" on line 18

2. Page 4, line 24.

Strike: "appeal"

Insert: "review"

3. Page 5, line 1.

Following: page 5, line 25

Insert: "(b) providing easily understandable information on appeal procedures;"

Renumber subsequent subsections

Signed: _____

Mike Ralston, Chairman

2-15-91
Amd. Coord.

2-15 1:10
Sec. of Senate

35120457 211

Montana's poorly designed roads. It is our tax policy that has created the trouble that we are in. At some point, we must face this fact and decide what we are going to do. If we are maintaining the highway system for the trucking industry, then we should be maintaining the railroad system as well. This would be fair tax policy.

There are many issues involved in the bill that was brought before the committee. Building and rebuilding Montana's highways, maintain our highways, unfair competition created by tax policy, environmentally sound competition versus environmentally unsound competition, employment of Montanans by Montana businesses, safer highways, and the more efficient use of tax dollars. HB 985 is one of those bills. One man said that if this bill passes, his business is out of here. REP. RANEY stated that if something isn't passed soon, all of the trucking businesses will be out of hear because there won't be any highways for them to operate on.

REP. RANEY addressed Mr. Gilmore from the DOH. He stated that he was going to talk to the Governor's staff about his testimony. When the Department comes before them, they tell us why our bills don't work and how to make them work. Mr. Gilmore has obviously been a lobbyist for the trucking industry. He has lobbied for every bill that is pro-trucking and lobbied against any bill that he perceives to be anti-trucking. This is not his position in government. Statistics from the DOH have stated that the passage of a fully loaded 18 wheeler inflicts \$1.05 of highway damage per mile of travel. Montana's highways can not continue to take this beating. DOH has stated alternatives to fuel tax increases will have to be explored. Mr. Gilmore stated that the DOH didn't need anymore money for two years, but his own department has published statistics that say otherwise.

Under the present system, Montana is not obtaining a fair share from trucks in relation to their use of the highways. He understands that HB 985 will not go anywhere, but after the DOH does their study and the next Legislature comes up, we are going to have to do something like this.

HEARING ON SB 279

Presentation and Opening Statement by Sponsor:

SEN. BROWN, Senate District 2, Whitefish, stated SB 279 is an act providing a taxpayer bill of rights; guaranteeing to all Montana taxpayers specified procedural rights in the administration and collection of taxes by the DOR; and creating an office of

taxpayer assistance.

The first taxpayer bill of rights was enacted in California several years ago. Six states have adopted this similar statute. Most of what is in the bill is existing Department policy. SB 279 places the rights that the taxpayer are entitled to in one place in the codes.

Section 2 states that the taxpayer has the right to record any interview meeting, or conference with auditors or any other representative of the department, the taxpayer has the right to hire a representative of the taxpayer's choice to represent his interests, etc.

Section 3 stated the DOR shall establish and maintain an office of taxpayer assistance.

Proponents' Testimony:

Dave Woodgerd, DOR, stated that SB 279 was at the request of the DOR. It is an idea that has been around the Department for several years. He provided written testimony. EXHIBITS 19,20

Mark Russell, Montana Society of CPAs, stood in support of SB 279.

Opponents' Testimony: None

Questions From Committee Members:

REP. STANG asked Dave Woodgerd if this was going to be done at the state or county level. Mr. Woodgerd stated SB 279 only addresses taxes administered and collected by the state. It wouldn't concern the collection on property taxes at the local level.

Closing by Sponsor:

SEN. BROWN made no closing statement.

HEARING ON HB 947

Presentation and Opening Statement by Sponsor:

REP. McCAFFREE, House District 27, Forsyth, stated HB 947 would implement a minimum tax collection of \$5.00. The reason being that there are many ghost towns and for some reason somebody has

assessment as assessed value. REP. COHEN asked if the word "special" would be better. Ms. Rippingale said yes.

Motion/Vote: REP. COHEN moved to amend HB 947. EXHIBIT 21 Motion carried unanimously by voice vote.

Motion/Vote: CHAIR HARRINGTON MADE A SUBSTITUTE MOTION THAT HB 947 DO PASS AS AMENDED. Motion carried 19 to 2 with REPS. GILBERT and STANG voting no.

EXECUTIVE ACTION ON SB 279

Motion/Vote: REP. STANG MOVED sb 279 BE CONCURRED IN. Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON SB 288

Discussion:

REP. O'KEEFE asked where the money comes from. CHAIR HARRINGTON said the money was already there. The money comes out of a special revenue that is required by certain fees and penalties is deposited into a special account. REP. O'KEEFE asked if instead of going into the RITT fund, it will go into a special revenue account. CHAIR HARRINGTON said yes and suggested that SB 288 be passed for the day.

Vote: NO ACTION WAS TAKEN ON SB 288.

EXECUTIVE ACTION ON HB 518

Motion: REP. FOSTER MOVED HB 518 DO PASS.

Discussion:

REP. COHEN explained the amendments. He stated the amendments were brought to the subcommittee by Chuck Stearns, Finance Officer, Missoula. He stated the amendments would create no extra burden on anyone.

Motion//Vote: REP. HOFFMAN moved to amend HB 518. EXHIBIT 22 Motion carried 20 to 1 with REP. HARRINGTON voting no.

Motion: REP. FOSTER moved to further amend HB 518 to include school districts

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL

DATE 3/21/91

NAME	PRESENT	ABSENT	EXCUSED
REP. DAN HARRINGTON	✓		
REP. BEN COHEN, VICE-CHAIRMAN	✓		
REP. BOB REAM, VICE-CHAIRMAN	✓		
REP. ED DOLEZAL	✓		
REP. JIM ELLIOTT	✓		
REP. ORVAL ELLISON	✓		
REP. RUSSELL FAGG	✓		
REP. MIKE FOSTER	✓		
REP. BOB GILBERT	✓		
REP. MARIAN HANSON	✓		
REP. DAVID HOFFMAN	✓		
REP. JIM MADISON	✓		
REP. ED MCCAFFREE	✓		
REP. BEA MCCARTHY	✓		
REP. TOM NELSON	✓		
REP. MARK O'KEEFE	✓		
REP. BOB RANEY	✓		
REP. TED SCHYE	✓		
REP. BARRY "SPOOK" STANG	✓		
REP. FRED THOMAS	✓		
REP. DAVE WANZENRIED	✓		

all here.

HOUSE STANDING COMMITTEE REPORT

March 21, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that Senate Bill 279 (third reading copy -- blue) be concurred in.

Signed: 
Dan Harrington, Chairman

Carried by: Rep. Harrington

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

DATE Taxation 3/21 COMMITTEE Sen Brown BILL NO. SB 279
SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Tom Hoggood	Mt. Assoc. Realtors	SB 279		✓
Dave Woodgerd	Dept. of Revenue	SB 279		✓
Tom Harmon	Mt. Soc. of CPAs	279		✓
James Twililer Com	MT Chamber	279		✓
Mark Russell	MT Soc. of CPAs	279		✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.